

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ALLAH,

Petitioner,

V.

DOUG WADDINGTON, et al.,

### **Respondent.**

No. C06-1334MJP

## ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court on Petitioner's amended petition for habeas corpus. (Dkt.

No. 9). Magistrate Judge Benton recommended that the petition be dismissed without prejudice. Mr. Allah has filed objections to the Report and Recommendation. (Dkt. No. 14). Having considered the papers filed by Mr. Allah, and Magistrate Judge Benton's Report and Recommendation, the Court ADOPTS the Report and Recommendation and DISMISSES Petitioner's petition without prejudice.

Magistrate Judge Benton recommended dismissal of Mr. Allah's habeas petition for two reasons: (1) the state court record refutes Petitioner's assertion that he is serving a sentence for a case which was dismissed; and (2) it appears that Petitioner has not exhausted his state court remedies regarding any alleged Fourth Amendment violation, and even if he had, Fourth Amendment claims are not cognizable in a federal habeas proceeding if a petitioner was given a full and fair opportunity to litigate the claims in state court. In his objections, Mr. Allah does not address the merits of Magistrate Judge Benton's report and recommendation. Instead, Mr. Allah accuses Magistrate Judge Benton of racial discrimination, and appears to challenge whether Magistrate Judge Benton has authority or jurisdiction over him. Mr. Allah also requests that Magistrate Judge Benton "correct or

1 supplement the record" by providing her own statement responding to his objections. Mr. Allah  
2 refers to various federal statutes and provisions of the U.C.C., none of which appear to be applicable  
3 here.

4 From the documents provided by Petitioner, it appears that Mr. Allah is serving time on three  
5 separate warrants of commitment, none of which has been dismissed. (See Dkt. No. 9 at 47). Mr.  
6 Allah has only provided detailed information about one of those cases — Case No. 01-1-10807-3.  
7 Regarding that cause number, it appears that Mr. Allah was sentenced on April 30, 2002, to serve  
8 126 months for violation of RCW 69.50.401(d), the Uniform Controlled Substances Act. (Dkt. No. 9  
9 at 39). Magistrate Judge Benton therefore correctly concluded that Mr. Allah is not serving a  
10 sentence for a case which was dismissed. Moreover, Magistrate Judge Benton correctly concluded  
11 that Mr. Allah may not bring Fourth Amendment claims in a federal habeas proceeding where he was  
12 given a full and fair opportunity to litigate the claims in state court. See Stone v. Powell, 428 U.S.  
13 465, 481-82 (1976).

14 Because Mr. Allah's objections do not address the root problems with his habeas petition, and  
15 because the Court agrees with Magistrate Judge Benton's recommendation that the Court reject the  
16 petition, the Court ADOPTS the report and recommendation and DISMISSES Mr. Allah's habeas  
17 petition without prejudice.

18 The clerk is directed to send copies of this Order to Petitioner and to Magistrate Judge  
19 Benton.

20 Dated: March 21, 2007.

21   
22 Marsha J. Pechman  
23 United States District Judge  
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